

## **REMARKS**

### **Status of Claims**

Claims 35 to 47, 49 to 53, 55 to 59, 61 to 63, and 65 to 74 are pending. Claims 1 to 34, 48, 54, 60, 63, and 64 have been canceled. Claims 49 to 53, 55 to 59, 61, 62, 68, 69, 71, 73, and 75 have been withdrawn. Claim 35 has been amended to clarify the subject matter regarded as the invention. No new matter has been introduced by way of this amendment. Consideration of the pending claims on the merits is respectfully requested.

### **Interview Summary**

Applicants thank the Examiner for the courtesy shown during the telephonic interview conducted on January 26, 2009 to discuss the Restriction Requirement mailed January 2, 2009. The Requirement was mailed after a second preliminary amendment was filed, however the Requirement did not address the new claims. The Examiner informed Applicants that new claims 65-67, 70, 72, and 74 would be added to Group I.

### **Restriction Requirement**

Applicants elect, with traverse, the claims of Group I, claims 35-48, 65-67, 70, 72, and 74 for prosecution.

Contrary to the position taken by the Examiner, the pending claims all share a single general inventive concept, the administration of one or more bacteriophage sequentially with one or more antibiotics and the exclusion of the provision of polysaccharide lyase, either in the bacteriophage preparation or separately therefrom. The Hanlon et al. reference cited by the Examiner does not impact the presently claimed invention because it focuses on the use of bacteriophage-produced alginase (a polysaccharide lyase) to breakdown *P. aeruginosa* biofilms. This and other differences are sufficient to distinguish the pending claims from Hanlon et al. As such, the pending claims share a single general inventive concept, and thus should be examined together. Accordingly, the present Restriction Requirement should be withdrawn.

Species Election

Applicants elect the bacteriophage panel recited in claim 46 for the purposes of prosecution. Because Applicants traverse the basis of the restriction, Applicants consider the election of this subject matter to constitute an election of species and is made with traverse.

All the pending claims read on the elections made herein.

Reservation of Rights

Applicants expressly reserve the right under 35 U.S.C. § 121 to file a divisional application directed to the non-elected subject matter during the pendency of this application, or an application claiming priority from this application.

**CONCLUSION**

If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark Office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. 03-1952 referencing docket no. 255352001900. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

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Respectfully submitted,

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